

Appl. No. : 07/586,666
Filed : June 1, 2000

REMARKS

This is responsive to the Final Office Action mailed February 26, 2003. This response and the attached declaration under 37 C.F.R. § 1.132 are a first submission under 37 C.F.R. § 1.129(a). The first submission is being filed after final rejection and prior to the filing of an appeal brief and prior to the abandonment of the application. The fee set forth in 37 C.F.R. § 1.17(r) for entry of a submission after final rejection is enclosed herewith. Applicant respectfully requests entry and consideration on the merits of the submission.

Claims 11-47 are pending in the application. A summary document is included herein above with the status of all claims and the text of all pending claims.

35 U.S.C. § 102 REJECTIONS

The Office Action rejects Claims 11-47 under 35 U.S.C. § 102(a) as being anticipated by Footnotes, Flex-Foot Brochure (Summer 1999) and under 35 U.S.C. §§ 102(a,b) as being anticipated by K2 Sensation™, Flex-Foot Brochure (June 1, 1999).

Applicant respectfully submits that the § 102(b) rejection is improper since the present application was filed on June 1, 2000, that is, within one year from the publication date of K2 Sensation™, Flex-Foot Brochure. Applicant also directs the Examiner's attention to U.S. Provisional Patent Appl. No. 60/201,150, filed May 2, 2000. The present utility application claims priority to this provisional application.

Accordingly, Applicant respectfully requests the Examiner to withdraw the § 102(b) rejection of the claims.

Applicant has enclosed herewith a Declaration under 37 C.F.R. § 1.132 from co-inventor Van L. Phillips which attributes subject matter disclosed in Footnotes, Flex-Foot Brochure and K2 Sensation™, Flex-Foot Brochure, and being claimed in the application, to the Applicant. Relevant portions of the cited references are a publication of Applicant's invention and originated with or were obtained from Applicant.

Accordingly, the cited references are no longer applicable and Applicant respectfully requests the Examiner to withdraw the § 102(a) rejection of the claims.

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PRIORITY CLAIM

Applicant respectfully requests the Examiner to acknowledge Applicant's priority claim under 35 U.S.C. § 119(e) to U.S. Provisional Appl. No. 60/201,150, filed May 2, 2000. The priority claim is contained in the specification, as filed on June 1, 2000, and as required by 37 C.F.R. § 1.78(a)(5).

CONCLUSION

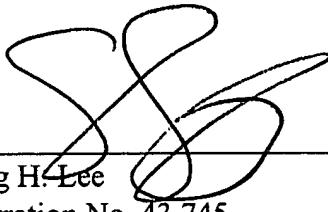
For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

Applicant has made a good faith effort to respond to the outstanding Office Action. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is cordially invited to call Applicant's attorney, at the telephone number appearing below, to resolve any such issue promptly. Also, please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 6-17-03

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